

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Rasenberger	Team: Squad #7	CCRB Case #: 202007066	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/16/2020 8:30 PM	Location of Incident: 1439 University Avenue	Precinct: 44	18 Mo. SOL 4/16/2022	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 10/22/2020 8:30 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 10/22/2020 8:30 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Steven Degree	00000	943141	NARCB BX
2. DT3 Yurantz Assade	04516	939886	INT CIS
3. POM Manish Sharma	10192	949656	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade stopped § 87(2)(b)	
B.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade frisked § 87(2)(b)	
C.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade searched § 87(2)(b)	
D.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade searched § 87(2)(b) s property.	
E.LT Steven Degree	Abuse: Lieutenant Steven Degree refused to provide his name to § 87(2)(b)	
F.POM Manish Sharma	Abuse: Police Officer Manish Sharma refused to provide his name to § 87(2)(b)	
G.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade refused to provide his name to § 87(2)(b)	
H.LT Steven Degree	Abuse: Lieutenant Steven Degree failed to provide § 87(2)(b) with a business card.	
I.DT3 Yurantz Assade	Abuse: Detective Yurantz Assade failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 22nd, 2020, the CCRB received the following telephone complaint from § 87(2)(b) on behalf of her daughter § 87(2)(b) [BR 1].

On the evening of October 16th, 2020, § 87(2)(b) was standing in front of 1439 University Avenue in the Bronx, along with two female friends. At about 8:30 p.m. Lt. Steven Degree of the 44th Precinct, Detective Yurantz Assade of Criminal Intelligence, and Police Officer Manish Sharma of the 44th Precinct stopped their vehicle near 1439 University Avenue, and exited to approach two men known to the department as drug dealers. When § 87(2)(b) and her female friends saw the officers, they ran inside the lobby of 1439 University Avenue. Detective Assade ran after the girls, into 1439 University Avenue, and stopped § 87(2)(b) [Allegation A: Abuse of Authority – Stop, § 87(2)(g) Police Officer Sharma and Lt. Degree followed Detective Assade into the lobby. Detective Assade then frisked, and allegedly searched § 87(2)(b)'s person [Allegation B: Abuse of Authority – Frisk, § 87(2)(g) Allegation C: Abuse of Authority - Search, § 87(2)(g) Detective Assade allegedly then searched a fanny pack that § 87(2)(b) was wearing. [Allegation D: Abuse of Authority – Search of property, § 87(2)(g)

Allegedly, § 87(2)(b) asked the officers for their names, but they refused to provide them [Allegation E, F, and G: Abuse of Authority – Refusal to provide name, § 87(2)(g) Neither Lt. Degree nor Detective Assade offered an RTKA card to § 87(2)(b) [Allegations H and I: Abuse of Authority - Failure to offer RTKA card, § 87(2)(g)

§ 87(2)(g), § 87(4-b)

The CCRB is in possession of four CCTV videos of the incident [BR 2, 3, and 4] and a body-worn camera video recorded by PO Sharma [BR 10]. The videos cited respectively as BR 2 and BR 3 will hereafter be referred to as **Street View Wide** and **Street View Close-up**.

Findings and Recommendations

Allegation A: Abuse of Authority - Detective Yurantz Assade stopped § 87(2)(b)

Allegation B: Abuse of Authority - Detective Yurantz Assade frisked § 87(2)(b)

Allegation C: Abuse of Authority - Detective Yurantz Assade searched § 87(2)(b)

Allegation D: Abuse of Authority - Detective Yurantz Assade searched § 87(2)(b)'s property.

On October 16th, 2020, around 8:30 p.m., § 87(2)(b) and two friends were standing outside of 1439 University Avenue in the Bronx, waiting for another friend that lives in the building to join them. **Street View Close-Up [BR 3]** shows the three girls standing around and speaking to one another between 00:00 and 4:50. **Street View Wide [BR 2]** shows two men standing in front of 1435 University Avenue (toward the bottom of the frame). One of the men wears all black clothing and a black baseball cap with a white brim. The second man – who is seen entering the frame at approximately 8:30 in the video above, wears light blue jeans and a gray sweater. These men may be involved in a narcotics operation, along with the occupant(s) of the black sedan seen parked directly behind a white van. Between 00:00 and 09:30 in **Street View Wide [BR 2]**, multiple persons are seen making hand-to-hand transactions with an unseen occupant of the sedan, including the man wearing a gray sweatshirt, at 08:35.

At 09:30 in **Street View Wide [BR 2]**, Detective Assade, Lt. Degree, and PO Sharma are seen stopping their vehicle across the street from 1439 University Avenue. The three members of

service exit their vehicle. They appear to walk in the direction of the two men described above. During his CCRB interview [BR 5], Lt. Degree denied that these men drew his attention, or that he had any knowledge of them. However, Detective Assade stated during his CCRB interview [BR 6] that, upon exiting his vehicle, his intention was to speak to both men. He explained that they are known to the NYPD as drug dealers. He wished to speak to the men about recent activities in the neighborhood, as part of his general intelligence gathering duties. Detective Assade noted that the environs of 1439 University Avenue are crime-prone, with narcotics and gang conditions, and that he has participated in several “violent arrests” in the area. Police Officer Sharma stated during his CCRB interview [BR 7] that he observed at least two individuals in front of 1435 University Avenue, including one individual that was sitting in a chair, on the building stairway. PO Sharma testified that he and the other officers intended to ask this man to move the chair, so that he would not obstruct pedestrian traffic.

At 04:48 in **Street View Close-Up [BR 3]**, Detective Assade is seen stepping onto the west sidewalk, about 25 feet away from § 87(2)(b) and her friends. He looks to his left, in the direction of the alleged drug dealers. Immediately thereafter, § 87(2)(b) and one of her friends are seen running into 1439 University Avenue. Detective Assade runs after § 87(2)(b) and her friend. Lt. Degree and PO Sharma are seen following Detective Assade. § 87(2)(b) stated during her CCRB interview that she became scared when the officers exited their vehicle. She ran into the building because “she did not know what was going to happen.” Detective Assade stated that, as he was about to approach the two alleged drug dealers, he heard one of the girls yell “it’s the boys” (“boys” being a colloquialism for the police). He turned toward the girls, he stated, and observed § 87(2)(b) attempting to grab, and apparently steal, a fanny pack that two other females were holding onto. He ran over to see if the females needed assistance. Lt. Degree did not corroborate any of Detective Assade’s alleged observations. Lt. Degree stated that he did not observe anything suspicious about § 87(2)(b) and that he did not know why Detective Assade ran into 1439 University Avenue. PO Sharma stated that he did not observe § 87(2)(b) or her friends, and ran into 1439 University Avenue only to provide assistance to Detective Assade; he did not know Detective Assade’s reason for running into the building.

The footage cited above [BR 2 and 3] contradicts Detective Assade’s assertion that § 87(2)(b) attempted to steal a fanny pack from the other two girls. § 87(2)(b) is not seen grabbing a bag – or any other item – from either of her friends. To the contrary, § 87(2)(b) is the only one of the three girls that has a bag, a fanny pack that she is seen wearing around her back. In a concatenated presentation prepared in InputAce [BR 8], Detective Assade is seen chasing § 87(2)(b) into the lobby of 1439 University Avenue. He is then seen grabbing ahold of § 87(2)(b) as she attempts to enter the building through the secondary lobby door. He continues to make physical contact with § 87(2)(b) as Lt. Degree enters the lobby and approaches § 87(2)(b) and Detective Assade.

According to § 87(2)(b) Detective Assade asked her why she ran into the building, and whether she had been smoking marijuana. Either Detective Assade or Lt. Degree is heard asking § 87(2)(b) “why did you run?” at 01:09 in PO Sharma’s BWC video [BR 10]. Detective Assade also allegedly searched § 87(2)(b)’s sweatshirt and sweatpants pockets. According to § 87(2)(b) there was nothing in her pockets except for a single credit card. Detective Assade allegedly then squeezed § 87(2)(b)’s fanny pack, before unzipping it and removing a cellphone from the bag. One of the girls that § 87(2)(b) was with, Imani, stated that Detective Assade put § 87(2)(b)’s hands on the wall, and then searched § 87(2)(b) “everywhere from the shoulders down” [BR 9]. According to Detective Assade, he told § 87(2)(b) that she looked like she had been trying to grab a bag from her friends, and asked her “what was going on.” § 87(2)(b) then unzipped her fanny pack, of her own volition, and showed its contents to Detective Assade. Detective Assade denied otherwise questioning § 87(2)(b). He further denied frisking or searching § 87(2)(b) and stated that there were no grounds for doing so. He specifically denied that he observed any bulges in § 87(2)(b)’s clothing. In footage of the lobby interior [BR 4], § 87(2)(b) is seen turning to face the wall. Detective Assade then appears to frisk § 87(2)(b)’s left pants pockets. The footage then jumps forward. (It is

not possible to determine how many frames are lost). As a result, it is not possible to determine the extent of the frisk that Detective Assade conducted. As well, the footage does not capture Detective Assade searching § 87(2)(b)'s pockets or her fanny pack. PO Sharma activated his body-worn camera shortly after entering 1439 University Avenue. However, his recording [BR 10] does not capture any of Detective Assade's actions -- except, as noted above, Detective Assade possibly asking § 87(2)(b) why she ran.

In *People v. Brogdon*, the court held that the police may lawfully pursue an individual if they have reasonable suspicion that he or she has committed or is about to commit a crime. Flight together with "other specific circumstances indicating that the suspect may be involved in criminal activity" can provide reasonable suspicion. However, flight alone, or flight in conjunction with equivocal circumstances that might permit a request for information, are insufficient to justify pursuit. *People v. Brogdon*, 8 A.D.3d 290 [BR 11].

Under NYPD PG 212-11, a police officer may request information from a civilian only when he has an objective, credible reason to approach the civilian. The objective is to gather information and not to focus on the person as a potential suspect. A police officer may seek information related to the reason(s) the person was approached such as the person's name, address and destination if those questions are related to the objective credible reason for the approach. The officer may not ask accusatory questions. The person may refuse to answer questions and walk or even run away. Walking or running away does not escalate the encounter. At this level, the officer may not seek consent to search, may not use force, and may not create a situation where a reasonable person would not feel free to leave.

A Terry stop is any encounter between a civilian and uniformed member of service in which a reasonable person would not feel free to disregard the officer and walk away. A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. The officer must have a particularized and objective basis for suspecting the person stopped, and must be able to articulate specific facts establishing justification for the stop.

A frisk is authorized when the member of the service reasonably suspects the person is armed and dangerous. A frisk may not be conducted to discover evidence or the proceeds or instrumentalities of a crime. A police officer cannot frisk a bag or item of personal property unless the officer has a reasonable suspicion that the person is armed and dangerous and the bag or items could contain a weapon. NYPD Patrol Guide § 212.11 [BR 12].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E: Abuse of Authority - Lieutenant Steven Degree refused to provide his name to

§ 87(2)(b)

Allegation F: Abuse of Authority - Detective Yurantz Assade refused to provide his name to

§ 87(2)(b)

Allegation G: Abuse of Authority - Police Officer Manish Sharma refused to provide his name to

Allegation H: Abuse of Authority - Lieutenant Steven Degree failed to offer an RTKA business card.

Allegation I: Abuse of Authority – Detective Yurantz Assade failed to offer an RTKA business card.

§ 87(2)(b) stated that, once Detective Assade concluded his frisk, she asked all three officers for their names. The officers ignored her, and simply said “have a nice night.” § 87(2)(b)’s friend, Imani, did not recall whether § 87(2)(b) asked the officers for their names. Detective Assade denied that § 87(2)(b) asked for his or Lt. Degree and Officer Sharma’s names. Neither Lt. Degree nor PO Sharma recalled § 87(2)(b) doing so. It is undisputed that none of the officers provided a Right to Know Act business card to § 87(2)(b). Lt. Degree stated that he was not required to offer a RTKA business card, because the encounter was not a stop. The investigation is not pleading a RTKA violation against PO Sharma. PO Sharma testified that he did not understand the nature of encounter, as he had not observed any of the factors that led to Detective Assade chasing after § 87(2)(b). Nor did he observe any of Detective Assade’s actions toward § 87(2)(b) or himself interact with § 87(2)(b). Footage of the lobby, as well as PO Sharma’s BWC recording, corroborate PO Sharma’s testimony. The BWC recording shows that PO Sharma was facing 1435 University Avenue as Detective Assade began to give chase. Upon entering 1439 University Avenue, PO Sharma interacted with another individual, § 87(2)(b). The footage does not show Detective Assade questioning, or taking actions to stop § 87(2)(b). The investigation has therefore concluded that PO Sharma did not participate in an investigatory encounter, and in turn was not required to offer an RTKA card.

Under NYPD PG 203-09, officers must courteously and clearly state their name, shield number, and command, or otherwise provide them, to anyone who requests them to do so. NYPD Patrol Guide § 203.09 [BR 13].

Under NYPD Administrative Guide 304-11, officers must offer a business card -- except in cases when a summons is issued or an arrest is made, or exigent circumstances are present (i.e. physical resistance, flight, imminent danger of physical injury or damage to property, or other factors make such procedure impractical) -- at the conclusion of a common law inquiry, stop, frisk, or search. [BR 14].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 18].
- Lt. Degree has been a member of service for 14 years, over which time he has been the subject of 12 complaints and 32 allegations, three of which were substantiated.
 - Case 201310243 involved substantiated allegations of stop, frisk, and search. The NYPD reached a disposition of command discipline B, and imposed this penalty.
 - § 87(2)(g)
- Detective Assade has been a member of service for 15 years, over which time he has been the subject of 12 complaints and 28 allegations, two of which were substantiated.
 - Case 201600040 involved substantiated allegations of frisk and vehicle search. The NYPD reached the disposition of Command Discipline A, and imposed this penalty.
 - § 87(2)(g)
- PO Sharma has been a member of service for 11 years, over which time he has been the subject of four CCRB complaints and five allegations, none of which have been substantiated.
 - § 87(2)(g)
- The CCRB is in receipt of the employment summaries for Lt. Degree [BR 21] and Detective Assade [BR 22].

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(c)
- According to the NYC Comptroller's Office, there are no notices of claim regarding this incident [BR 20].

Investigator:	<u>Will Rasenberger</u>	<u>Inv. Will Rasenberger</u>	<u>07/19/2021</u>
	Signature	Print Title & Name	Date
Squad Leader:	<u> </u>	<u>Manager Vanessa Rosen</u>	<u>August 2, 2021</u>
	Signature	Print Title & Name	Date
Reviewer:	<u> </u>	<u> </u>	<u> </u>
	Signature	Print Title & Name	Date